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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/749,762

12/31/2003

Keith A. Etling

038190/269125

9125

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7590

11/24/2006

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EXAMINER

PICKARD, ALISON K

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 11/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/749,762

Applicant(s)

ETLING, KEITH A.

Examiner

Alison K. Pickard

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3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 25-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-14 and 31-36 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 25-27 is/are rejected.
- 7) ☒ Claim(s) 8 and 28-30 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-6, 25, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Warshaw.

Warshaw discloses an apparatus comprising a sealing member having an attachment portion 21/22 fixed by a rivet 46 to a surface, a seal portion comprising a deformable sponge segment 11 is connected to the attachment portion. The surfaces define an aperture that receives the deformable segment. A coating 16 is disposed over the two surfaces and sealing member. Portion 21 can be considered a release material. The apparatus allows for expansion and contraction of the joint. Therefore, in an expanded position, the deformable segment would be fully positioned within the aperture.

Claims 1-3, 5-7, 25, 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Hazen (3,848,379).

Hazen discloses an apparatus comprising a sealing member having an attachment portion (either 24 or 14) fixed to a surface and a seal portion 25 that is a deformable segment positioned fully within a receiving aperture defined by at least one of the surfaces 46. A coating 48 is disposed on the sealing member and the two surfaces. The coating defines a splice coincident with a distal end of the sealing member (see line 22 in Fig. 4) such that the coating is continuous

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across the seal and at least one of the surfaces. If element 14 is considered the attachment portion, a rivet extends therethrough. If portion 24 is the attachment portion, then element 14 is an engagement member further defining the aperture and receives the deformable segment of the seal member (see line 43 in Fig. 4).

3. Claims 1, 3, 5, 7, 25 are rejected under 35 U.S.C. 102(b) as being anticipated by LaRoche (4,866,898).

LaRoche discloses an apparatus comprising a sealing member having an attachment portion 50, seal/deformable portion (either 42 or 40), aperture, 22, coating 26, and engagement member (40 if 42 is seal portion).

Allowable Subject Matter

4. Claims 9-14 and 31-36 are allowed.

5. Claims 8 and 28-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed 9-20-06 have been fully considered but they are not persuasive.

Warshaw has been maintained because when the joint expands the deformable segment 11 will expand and flatten such that it will sit fully within the aperture. The allowability of claims 2 and 26 have been withdrawn due to the discovery of Hazen, which has a spliced coating as required by the claims.

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Conclusion


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alison K. Pickard whose telephone number is 571-272-7062.

The examiner can normally be reached on M-F (10-7:30), with alternate Friday's off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tricia Engle can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Alison K. Pickard
Primary Examiner
Art Unit 3673

AP